

Filed for intro on 02/02/95
House Bill _____
By _____

Senate No. SB0685
By Wright

AN ACT to amend Tennessee Code Annotated, Title 38, Chapter 8, relative to drug and alcohol testing programs for law enforcement officers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 38, Chapter 8, is amended by adding the following as a new part 4:

38-8-401. As used in this part, unless the context otherwise requires:

(a) "Law enforcement department" means every municipal police department, county sheriff's department, the Tennessee Bureau of Investigation and the Tennessee Highway Patrol.

(b) "Law enforcement officer" means any person employed by a law enforcement department who has, by virtue of such employment, the authority to effectuate an arrest or carry a firearm.

38-8-402.

(a) In order to promote the public's confidence in its law enforcement officers and to better ensure its safety, each law enforcement department shall

establish and utilize a comprehensive program for the random drug testing of each law enforcement officer in such department.

(b) Such drug testing program shall contain at least the minimum requirements set out in this part but may exceed such minimum requirements in the discretion of the individual department.

38-8-402. The following are minimum requirements that every drug testing program required by this part must contain:

(a) Each law enforcement officer shall be subjected to a random, unannounced test for the types of drugs specified in subsection (b) of this section at least two (2) times a year.

(b)(1) The drug test shall be a nine-panel test which shall include testing for the presence of the following types of drugs:

- (A) Cocaine;
- (B) Phencyclidine (PCP);
- (C) Amphetamines;
- (D) Opiates;
- (E) Barbiturates;
- (F) Methadone;
- (G) Valium; and
- (H) Marijuana.

(2) At the same time as the nine-panel test, the officer shall also be tested for the presence of alcohol in the officer's blood at a level of two-hundredths of one percent (.02%) ,or more, by weight.

(c) All tests shall be conducted and analyzed on a contract basis by an independent testing company that has no significant contacts with the law enforcement department.

(d) Such testing company shall utilize a preliminary screen method with any positive results confirmed by the GC/MS confirmation technique. Such testing company shall also utilize either a licensed medical doctor or doctor of osteopathy to serve as the medical review officer and review positive test results.

(e) The testing program shall give each officer, prior to taking the test, the opportunity to notify the officer's immediate supervisor of any prescription medication the officer is taking and the nature of the injury or illness for which the medicine was prescribed.

(f) If an officer tests positive for the presence of a drug listed in subsection (b) of this section, such program may utilize the department's existing policies, procedures and safeguards for the dismissal, demotion, suspension, transfer or other disciplinary action taken against an officer for punitive reasons, including the method by which such officer is afforded a due process hearing. Section 38-8-404.

(a) Notwithstanding any other provision of law to the contrary, the drug testing program required by this part shall be funded from the drug fund established from fines and forfeitures from violations of the drug laws that are collected pursuant to Tennessee Code Annotated, Title 39, Chapter 17, Part 4, and Title 40, Chapter 33, Part 2.

(b) At the beginning of each fiscal year the law enforcement department shall estimate, based upon the number of officers and the cost of the test, the cost of operating the drug testing program required by this part for that fiscal year. No money shall be expended from the drug fund for any other purpose until the estimated cost of funding the drug testing program for that year has been collected and placed in reserve. If a department has an existing drug fund or has carry-over funds from a previous year sufficient to pay for the drug testing program for that fiscal year, expenditures from the drug fund for other purposes

may be made provided an amount equal to the estimated cost of the drug testing program for that year is placed in reserve.

Section 38-8-405. The drug testing program required by this part shall be established and operational by July 1, 1995, and every law enforcement officer shall be subjected to at least one (1) random drug test during calendar year 1995. Thereafter, the provisions of Section 38-8-403(a) shall be applicable relative to the frequency of testing.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. For the purpose of establishing the law enforcement officer drug testing program required by this act, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 1995, the public welfare requiring it.

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